

BAY COUNTY ELECTION COMMISSION  
PORTSMOUTH TWP.  
JUNE 26, 1991

THE BAY COUNTY ELECTION COMMISSION MET ON WEDNESDAY, JUNE 26, 1991, IN THE COMMISSIONER'S GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING FOR THE PURPOSE OF DETERMINING CLARITY OF PETITIONS FILED IN RECALL ATTEMPTS OF PORTSMOUTH TOWNSHIP OFFICIALS. THE MEETING WAS CALLED TO ORDER BY THE CHAIRMAN OF THE COMMISSION, JUDGE PAUL DONER, AT 12:00 NOON. THE FOLLOWING MEMBERS AND GUESTS HAD ATTENDED.

ROLL CALL:      PAUL N. DONER, PROBATE JUDGE  
                 GEORGE MULLISON, PROSECUTOR  
                 LINDA L. TOBER, CHIEF DEPUTY  
                 CYNTHIA A. LUCZAK, SECRETARY  
                 DONALD KZEWINSKI, PETITIONER  
                 EDWARD BRISTOW, PETITIONER  
                 ROBERT PAWLAK, TWP. SUPERVISOR  
                 JUDITH BUKOWSKI, TWP. CLERK  
                 JAMES BANASZAK, TWP. TRUSTEE  
                 CHARLES PAWLAK, TWP. TRUSTEE  
                 HENRY BRANDT, TWP. TREASURER  
                 JOHN MCQUILLAN, TWP. ATTORNEY  
                 LESLIE JOHNSON, TWP. RESIDENT

PORTSMOUTH TOWNSHIP TRUSTEE, VIRGIL GATZA, HAD NOT ATTENDED THIS CLARITY RECALL.

JUDGE DONER STATED GEORGE MULLISON HAD BEEN APPOINTED TO FILL THE SEAT OF COMMISSION MEMBER EDWARD LEWANDOWSKI AND THAT LINDA TOBER ATTENDED THE SESSION ON BEHALF OF CLERK ALBERTSON PURSUANT TO STATE STATUTE.

JUDGE DONER ACCEPTED PUBLIC COMMENT ACCORDANCE WITH THE OPEN MEETINGS ACT.

TOWNSHIP SUPERVISOR, ROBERT PAWLAK, RESPONDED TO COMMENTS MADE BY MR. BRISTOW REGARDING THE LOCATION OF TOWNSHIP SEPTIC TANKS AND ISSUANCE OF STATE LOAN PROGRAM FUNDS.

WITH NO ONE ELSE WISHING TO ADDRESS THE COMMISSION, THE BOARD RETURN TO THE REGULAR ORDER OF BUSINESS.

JUDGE DONER EXPLAINED THE PETITIONS SUBMITTED BY MR. KZEWINSKI BE NUMBERED ONE THROUGH TWELVE WITH THE INDIVIDUAL PETITION AGAINST CLERK BUKOWSKI TO BE ASSIGNED NUMBER THIRTEEN. IN ADDITION, A PETITION SUBMITTED BY MR. BRISTOW FOR RECALL OF THE TOWNSHIP SUPERVISOR ONLY, BE CONSIDERED INDIVIDUALLY.

JUDGE DONER STATED THE ISSUES OF RECORD CONSIDERED AT PREVIOUS RECALL CLARITY HEARINGS WOULD BE INCORPORATED INTO THE RECORD AND CLARITY OF THIS DATE.

ATTORNEY JOHN MCQUILLAN VOICED HIS COMMENTS AT THIS TIME. HE FELT THE PETITIONS SUBMITTED MUST PRESENT A CLEAR AND UNAMBIGUOUS LANGUAGE PROVING MISCONDUCT OF THE TOWNSHIP OFFICIALS. MR. MCQUILLAN CONTENDED THE PETITIONS SUBMITTED FOR REVIEW AT THIS CLARITY WERE ONLY "MODIFIED" VERSIONS OF PETITIONS CONSIDERED AT EARLIER CLARITY HEARINGS. HE COMPARED PETITIONS NUMBERED ONE THROUGH TWELVE INDIVIDUALLY WITH THOSE OF OTHER RECALLS. MR. MCQUILLAN FELT PETITION NUMBER TWELVE WAS THE ONLY PETITION WITH ANY NEW ALLEGATIONS CONTAINED IN THE LANGUAGE. PETITION TWELVE ALSO CONTAINED SIGNIFICANTLY INACCURATE STATEMENTS OF LAW IN THE ATTORNEY'S OPINION. MR. MCQUILLAN FELT PETITION NUMBER THIRTEEN, ACTS OF THE TOWNSHIP CLERK, WAS UNWARRANTED IN THAT THE CLERK WAS NOT AUTHORIZED TO PRACTICE LAW BY PREPARING PETITIONS FOR REFERENDUM. FOR LACK OF CLARITY AND LACK OF EVIDENCE TO SUPPORT ANY MALFEASANCE/MISFEANCE CLAIM, THAT PETITIONS AT THE REQUEST OF MR. KZEWINSKI, BE DISAPPROVED.

ATTORNEY MCQUILLAN FURTHER ADDRESSED THE SEPERATE PETITION SUBMITTED BY MR. EDWARD BRISTOW. EXPLAINED WAS THE LANGUAGE AMBIGUITY REGARDING LOCATION OF ALL TOWNSHIP SEPTIC TANKS, WHERE PEOPLE RESIDE AND THE INTEREST OF TOWNSHIP SUPERVISOR IN PORTSMOUTH TOWNSHIP RESIDENTS OVERALL. FURTHER, THAT AN OFFICER OF A TOWNSHIP BOARD WAS NOT LEGALLY REQUIRED TO SET STANDARD TOWNSHIP OFFICE HOURS. ALSO, THAT A TOWNSHIP SUPERVISOR DID NOT HAVE THE AUTHORITY TO ENFORCE LAWS IN THE TOWNSHIP, ONLY ENFORCE TOWNSHIP ORDINANCES.

MR. KZEWINSKI WAS EXCUSED DURING THE MEETING THUS UNABLE TO COMMENT WHEN GIVEN THE OPPORTUNITY.

MR. BRISTOW DID NOT WISH TO RESPOND WHEN CALLED UPON.

MOTION #1: JUDGE PAUL DONER MOVED PETITIONS NUMBERED ONE THROUGH TWELVE BE REJECTED FOR FAILURE TO COMPLY WITH THE STATUTE FOR CLARITY, AMBIGUITY AND OTHER ARGUMENTS ADDRESSED ON THIS DATE. GEORGE MULLISON SUPPORTED THE MOTION AND IT WAS PASSED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.

MOTION #2: JUDGE PAUL DONER MADE THE SAME MOTION TO DENY PETITION NUMBERED THIRTEEN AS DIRECTED TO TOWNSHIP CLERK BUKOWSKI. GEORGE MULLISON SUPPORTED THE MOTION TO REJECT THE PETITION AND IT CARRIED BY UNANIMOUS ROLL CALL VOTE.

MOTION 3: JUDGE PAUL DONER MOVED THE SEPERATE PETITION SUBMITTED BY EDWARD BRISTOW FOR RECALL OF THE TOWNSHIP SUPERVISOR, ALSO BE REJECTED FOR THE REASONS STATED ABOVE ALONG WITH BOARD CONCURRENCE OF COMMENTS MADE BY ATTORNEY MCQUILLAN IN

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MOTION #3: THIS REGARD. DEPUTY CLERK TOBER SUPPORTED THE MOTION TO REJECT THE PETITION SUBMITTED BY EDWARD BRISTOW AND IT WAS PASSED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.

CHAIRMAN DONER REQUESTED THE CLERK NOTIFY MR. KZEWSKI OF ACTION TAKEN BY THE ELECTION COMMISSION THIS DATE.

MOTION #4: PROSECUTOR MULLISON MOVED TO ADJOURN THE CLARITY HEARING HELD ON THIS DATE. JUDGE DONER SUPPORTED THE MOTION TO ADJOURN AND THE MEETING WAS ADJOURNED AT 12:15 P.M. BY UNANIMOUS VOTE.

RESPECTFULLY SUBMITTED

LINDA L. TOBER  
CHIEF DEPUTY CLERK